

Title 63H. Independent State Entities

Chapter 1 Military Installation Development Authority Act

Part 1 General Provisions

63H-1-101 Title.

This chapter is known as the "Military Installation Development Authority Act."

Enacted by Chapter 23, 2007 General Session

63H-1-102 Definitions.

As used in this chapter:

- (1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.
- (2) "Base taxable value" means:
 - (a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or
 - (b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which tax increment will be collected, as shown upon the assessment roll last equalized before the year in which the authority issues a building permit for a building within that portion of the project area.
- (3) "Board" means the governing body of the authority created under Section 63H-1-301.
- (4)
 - (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:
 - (i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or
 - (ii) an included municipality.
 - (b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.
- (5)
 - (a) "Development" means an activity occurring on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity.
 - (b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.
- (6) "Development project" means a project to develop land within a project area.
- (7) "Elected member" means a member of the authority board who:
 - (a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or
 - (b)
 - (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and
 - (ii) concurrently serves in an elected state, county, or municipal office.

- (8) "Included municipality" means a municipality, some or all of which is included within a project area.
- (9) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.
- (10) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.
- (11) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
- (12) "Municipal services revenue" means revenue that the authority:
 - (a) collects from the authority's:
 - (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;
 - (b) receives under Subsection 59-12-205(2)(b)(ii); and
 - (c) receives as dedicated tax collections.
- (13) "Municipal tax" means a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax.
- (14) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.
- (15) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:
 - (a) the base taxable value of property in the project area;
 - (b) the projected tax increment expected to be generated within the project area;
 - (c) the amount of the tax increment expected to be shared with other taxing entities;
 - (d) the amount of the tax increment expected to be used to implement the project area plan, including the estimated amount of the tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
 - (e) the tax increment expected to be used to cover the cost of administering the project area plan;
 - (f) if the tax increment is to be collected at different times or from different portions of the project area, or both:
 - (i)
 - (A) the tax identification numbers of the parcels from which the tax increment will be collected; or
 - (B) a legal description of the portion of the project area from which the tax increment will be collected; and
 - (ii) an estimate of when other portions of the project area will become subject to collection of the tax increment; and
 - (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.
- (16) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(17)

- (a) "Property tax" includes a privilege tax, except as described in Subsection (17)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.
- (b) "Property tax" does not include a privilege tax on the taxable value attributable to a portion of a facility leased to the military for a calendar year when:
 - (i) a lessee of military land has constructed a facility on the military land that is part of a project area;
 - (ii) the lessee leases space in the facility to the military for the entire calendar year; and
 - (iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses.

(18) "Public entity" means:

- (a) the state, including each department or agency of the state; or
- (b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(19)

- (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public and are:
 - (i) publicly owned by the military, the authority, or another public entity;
 - (ii) owned by a utility; or
 - (iii) publicly maintained or operated by the military, the authority, or another public entity.
- (b) "Publicly owned infrastructure and improvements" includes:
 - (i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and
 - (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(20) "Remaining municipal services revenue" means municipal services revenue that the authority has not spent during its fiscal year for municipal services as provided in Subsection 63H-1-503(1).

(21) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(22) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(23) "Tax increment" means the difference between:

- (a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the tax increment is to be collected, using the current assessed value of the property; and
- (b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(24) "Taxing entity" means a public entity that levies a tax on property within a project area.

(25) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(26) "Transient room tax" means a tax under Section 59-12-352.

Amended by Chapter 183, 2014 General Session

Amended by Chapter 270, 2014 General Session

Part 2

Authority Creation and Powers

63H-1-201 Creation of military installation development authority -- Status and powers of authority -- Limitation.

- (1) There is created a military installation development authority.
- (2) The authority is:
 - (a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of military land in a project area;
 - (b) a political subdivision of the state; and
 - (c) a public corporation, as defined in Section 63E-1-102.
- (3) The authority may:
 - (a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area;
 - (b) sue and be sued;
 - (c) enter into contracts generally;
 - (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:
 - (i) in a project area; or
 - (ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
 - (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
 - (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
 - (i) in a project area; or
 - (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
 - (g) provide for the development of land within a project area under one or more contracts;
 - (h) exercise powers and perform functions under a contract, as authorized in the contract;
 - (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
 - (j) receive tax increment and other taxes and fees as provided in this chapter;
 - (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
 - (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
 - (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
 - (n) hire employees, including contract employees;
 - (o) transact other business and exercise all other powers provided for in this chapter;
 - (p) enter into a development agreement with a developer of land within a project area;
 - (q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

- (r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;
- (s) provide for or finance an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;
- (t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; and
- (u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:
 - (i) provides law enforcement services only to military land within a project area; and
 - (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state.
- (4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

Amended by Chapter 246, 2013 General Session

63H-1-202 Applicability of other law.

- (1) The authority or land within a project area is not subject to:
 - (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;
 - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;
 - (c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or
 - (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
- (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
- (3)
 - (a) The definitions in Section 57-8-3 apply to this Subsection (3).
 - (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act:
 - (i) if the military is the owner of land on which a condominium project is constructed, it is not required to sign, execute, or record a declaration of a condominium project; and
 - (ii) if a condominium unit is owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:
 - (A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act; and
 - (B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit.

Amended by Chapter 183, 2014 General Session

63H-1-203 Levy of a municipal tax -- Direct tax payment to MIDA.

- (1) A levy of a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax, including an increase in the applicable tax rate, requires the affirmative vote of:
 - (a) the authority board; and
 - (b) a majority of all elected members of the authority board.
- (2) If the authority board levies a municipal energy tax, a consumer who acquires taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's energy supplier is not required under federal law to collect the tax in the manner described in Section 10-1-307.

Amended by Chapter 362, 2013 General Session

63H-1-204 MIDA energy tax.

- (1) By ordinance, an authority board may levy a MIDA energy tax, within a project area, on an energy supplier as defined in Section 10-1-303.
- (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined in Section 10-1-303, except that delivered value does not include the amount of a tax paid under this section.
- (3)
 - (a) An energy supplier may recover an amount equal to the MIDA energy tax from its customers, if the energy supplier includes the amount as a separate billing line item.
 - (b) The MIDA energy tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.
- (4) If the authority has levied a municipal energy tax in the project area, the MIDA energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on the same delivered value.
- (5)
 - (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly basis as described by the ordinance levying the tax.
 - (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

Enacted by Chapter 362, 2013 General Session

Part 3 Authority Board

63H-1-301 Authority board -- Delegation of power.

- (1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.
- (2) All powers of the authority are exercised through the board.
- (3) The board may by resolution delegate powers to authority staff.

Amended by Chapter 92, 2009 General Session

63H-1-302 Number of board members -- Appointment.

- (1) The authority's board shall consist of seven members.

- (2) Five members of the board shall be appointed by the governor as follows:
 - (a) one member shall be appointed who is interested in supporting military efforts in the state;
 - (b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and
 - (c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.
- (3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.
- (4)
 - (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
 - (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.
 - (c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.
 - (d) If there are more than three project areas located in different counties or municipalities, at the expiration of a member's term who is appointed under Subsection (2)(b), the governor shall appoint:
 - (i) a mayor of a municipality or county that:
 - (A) is adjacent to or in close proximity to a project area; and
 - (B) is not already represented on the board; or
 - (ii) a member of a legislative body of a municipality or county that:
 - (A) is adjacent to or in close proximity to a project area; and
 - (B) is not already represented on the board.
 - (e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
- (5) The authority may:
 - (a) appoint nonvoting members of the board; and
 - (b) set terms for nonvoting members appointed under Subsection (5)(a).

Amended by Chapter 362, 2013 General Session

63H-1-303 Term of board members.

- (1) The term of board members is four years, except that the term of the members of the initial board shall be staggered so that the term of approximately half the board members expires every two years.
- (2) Each board member shall serve until a successor is duly appointed and qualified.

Amended by Chapter 92, 2009 General Session

Part 4

Project Area Plan and Budget

63H-1-401 Preparation of project area plan -- Required contents of project area plan.

- (1)
 - (a) The authority board shall adopt a project area plan as provided in this part.
 - (b) In order to adopt a project area plan, the authority board shall:
 - (i) prepare a draft project area plan;
 - (ii) give notice as required under Subsection 63H-1-402(2);
 - (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
 - (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.
 - (c) Before adopting a draft project area plan as the project area plan, the authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.
 - (d)
 - (i) A lease or development agreement that the authority enters before the creation of a project area shall provide that the board is not required to create a project area.
 - (ii) An authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.
- (2) Each project area plan and draft project area plan shall contain:
 - (a) a legal description of the boundary of the project area that is the subject of the project area plan;
 - (b) the authority's purposes and intent with respect to the project area; and
 - (c) the board's findings and determination that:
 - (i) there is a need to effectuate a public purpose;
 - (ii) there is a public benefit to the proposed development project;
 - (iii) it is economically sound and feasible to adopt and carry out the project area plan; and
 - (iv) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.
- (3) A project area described in a project area plan:
 - (a) shall include military land; and
 - (b) may include public or private land, whether or not it is contiguous to military land, if:
 - (i) the legislative body of the county in which the public or private land is located, if the public land or private land is located in an unincorporated county, passes a resolution consenting to the inclusion of the land in the project area;
 - (ii) the legislative body of an included municipality passes a resolution consenting to the inclusion of the land in the project area; and
 - (iii) the owner of the public or private land consents to the inclusion of the land in the project area.

Amended by Chapter 80, 2012 General Session

63H-1-402 Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

- (1) The authority board shall hold at least one public meeting to consider and discuss the draft project area plan.

- (2) At least 10 days before holding a public meeting under Subsection (1), the authority board shall give notice of the public meeting to:
 - (a) a taxing entity; and
 - (b) a municipality that is located within one-half mile of the proposed project area.
- (3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Amended by Chapter 9, 2010 General Session

63H-1-403 Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

- (1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:
 - (a) in a newspaper of general circulation within or near the project area; and
 - (b) as required by Section 45-1-101.
- (2) Each notice under Subsection (1) shall include:
 - (a) the board resolution adopting the project area plan or a summary of the resolution; and
 - (b) a statement that the project area plan is available for general public inspection and the hours for inspection.
- (3) The project area plan shall become effective on the date of publication of the notice.
- (4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.
- (5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:
 - (a) the State Tax Commission;
 - (b) the Automated Geographic Reference Center created in Section 63F-1-506; and
 - (c) the assessor and recorder of each county where the project area is located.

Amended by Chapter 362, 2013 General Session

63H-1-403.5 Amendment to a project area plan.

- (1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.
- (2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

Enacted by Chapter 120, 2008 General Session

63H-1-405 Project area budget.

- (1) Before the authority may receive or use tax increment, the authority board shall prepare and adopt a project area budget.
- (2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.

Enacted by Chapter 92, 2009 General Session

Part 5

Authority Funds

63H-1-501 Authority receipt and use of tax increment -- Distribution of tax increment.

- (1)
 - (a) The authority may:
 - (i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25 years, as provided in this part; and
 - (ii) use the tax increment during and after the period described in Subsection (1)(a)(i).
 - (b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax increment from that parcel.
- (2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.
- (3) Each county that collects property tax on property within a project area shall pay and distribute to the authority the tax increment and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.
- (4)
 - (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to tax increment.
 - (b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to tax increment.

Amended by Chapter 183, 2014 General Session

63H-1-502 Allowable uses of tax increment and other funds.

- (1) Other than municipal services revenue, the authority may use tax increment and other funds available to the authority:
 - (a) for any purpose authorized under this chapter;
 - (b) for administrative, overhead, legal, and other operating expenses of the authority;
 - (c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the tax increment or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;
 - (d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the tax increment funds were collected;
 - (e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:
 - (i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and
 - (ii) for a passenger ropeway, at least one end of the ropeway is located within the project area; and
 - (f) to pay the principal and interest on bonds issued by the authority.
- (2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:
 - (a) operate and maintain the infrastructure or improvements; and

- (b) pay for authority operating expenses, including administrative, overhead, and legal expenses.
- (3) For purposes of Subsection (1), the authority may use:
 - (a) tax revenues received under Subsection 59-12-205(2)(b)(ii);
 - (b) resort communities tax revenues generated from a project area that contains private land; and
 - (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated.
- (4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Amended by Chapter 362, 2013 General Session

63H-1-503 Use of municipal services revenue.

- (1) The authority may use municipal services revenue to pay for:
 - (a) administrative, overhead, legal, and other operating expenses of the authority; and
 - (b) municipal services within the project area from which the revenue was collected.
- (2) Unless otherwise provided by agreement between the authority and each county and municipality levying a property tax on property within a project area, the authority shall distribute any remaining municipal services revenue equally among all counties and municipalities that levy a property tax on property within a project area.

Enacted by Chapter 92, 2009 General Session

63H-1-504 Authority funds nonlapsing.

All funds received by the authority are nonlapsing.

Enacted by Chapter 9, 2010 General Session

Part 6 Authority Bonds

63H-1-601 Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

- (1) The authority may not issue bonds under this part unless the authority board first adopts a resolution authorizing their issuance.
- (2)
 - (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
 - (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.
- (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

- (a) in a newspaper having general circulation in the authority's boundaries; and
 - (b) as required in Section 45-1-101.
- (4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
- (5) For a period of 30 days after the publication, any person in interest may contest:
- (a) the legality of the resolution or proceeding;
 - (b) any bonds that may be authorized by the resolution or proceeding; or
 - (c) any provisions made for the security and payment of the bonds.
- (6)
- (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.
 - (b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Amended by Chapter 234, 2011 General Session

63H-1-602 Sources from which bonds may be made payable -- Authority powers regarding bonds.

- (1) The principal and interest on bonds issued by the authority may be made payable from:
- (a) the income and revenues of the projects financed with the proceeds of the bonds;
 - (b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
 - (c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;
 - (d) tax increment funds;
 - (e) authority revenues generally;
 - (f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or
 - (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of authority bonds, the authority may:
- (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
 - (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
 - (c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 9, 2010 General Session

63H-1-603 Authority to purchase agency bonds.

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.

- (2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 23, 2007 General Session

63H-1-604 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

- (1) A member of the authority board or other person executing an authority bond is not liable personally on the bond.
- (2)
- (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.
 - (b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.
 - (c) The community, the state, and its political subdivisions may not be liable on a bond issued by the authority.
 - (d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 23, 2007 General Session

63H-1-605 Obligee rights -- Board may confer other rights.

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:
- (a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and
 - (b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.
- (2)
- (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an authority board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.
 - (b)
 - (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
 - (A) cause possession of all or part of a development project to be surrendered to an obligee;
 - (B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and
 - (C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.

- (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i) (B), the receiver:
 - (A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and
 - (B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 23, 2007 General Session

63H-1-606 Bonds exempt from taxes -- Authority may purchase its own bonds.

- (1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) The authority may purchase its own bonds at a price that its board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 23, 2007 General Session

Part 7

Authority Budget and Reports

63H-1-701 Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

- (1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.
- (2) Each annual authority budget shall be adopted before June 22.
- (3) The authority's fiscal year shall be the period from July 1 to the following June 30.
- (4)
 - (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.
 - (b) The authority shall provide notice of the public hearing on the annual budget by:
 - (i) publishing notice:
 - (A) at least once in a newspaper of general circulation within the authority boundaries, one week before the public hearing; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing; or
 - (ii) if there is no newspaper of general circulation within the authority boundaries as described in Subsection (4)(a)(i)(A), posting a notice of the public hearing in at least three public places within the authority boundaries.
 - (c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.
- (5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

- (a) revenues and expenditures for the budget year;
 - (b) legal fees; and
 - (c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.
- (6)
- (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of the county in which the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.
 - (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Amended by Chapter 90, 2010 General Session

63H-1-702 Amending the authority annual budget.

- (1) The authority board may by resolution amend an annual authority budget.
- (2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.
- (3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 23, 2007 General Session

63H-1-703 Authority report.

- (1)
 - (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.
 - (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.
- (2) Each report under Subsection (1) shall contain:
 - (a) an estimate of the tax increment to be paid to the authority for the calendar year ending December 31; and
 - (b) an estimate of the tax increment to be paid to the authority for the calendar year beginning the next January 1.

Enacted by Chapter 23, 2007 General Session

63H-1-704 Audit requirements.

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 23, 2007 General Session

63H-1-705 Audit report.

- (1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.
- (2) Each audit report under Subsection (1) shall include:
 - (a) the tax increment collected by the authority for each project area;
 - (b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's project areas; and
 - (c) the actual amount expended for:
 - (i) acquisition of property;
 - (ii) site improvements or site preparation costs;
 - (iii) installation of public utilities or other public improvements; and
 - (iv) administrative costs of the authority.

Enacted by Chapter 23, 2007 General Session

63H-1-706 Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.

- (1) The authority's chief financial officer:
 - (a) is a public treasurer, as defined in Section 51-7-3; and
 - (b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.
- (2) Notwithstanding Subsection 63E-2-110(2)(a), tax increment funds, municipal services revenue, and appropriations that the authority receives from the state:
 - (a) are public funds; and
 - (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 92, 2009 General Session

Part 8

Authority Dissolution

63H-1-801 Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.

- (1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.
- (2) Upon the dissolution of the authority:
 - (a) the Governor's Office of Economic Development shall publish a notice of dissolution:
 - (i) in a newspaper of general circulation in the county in which the dissolved authority is located; and
 - (ii) as required in Section 45-1-101; and
 - (b) all title to property owned by the authority vests in the state.
- (3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.
- (4) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 92, 2009 General Session
Amended by Chapter 388, 2009 General Session

Chapter 2

Utah Energy Infrastructure Authority Act

Part 1

General Provisions

63H-2-101 Title.

This chapter is known as the "Utah Energy Infrastructure Authority Act."

Amended by Chapter 37, 2012 General Session

63H-2-102 Definitions.

As used in this chapter:

- (1) "Agency" is as defined in Section 17C-1-102.
- (2) "Assessment area" is as defined in Section 11-42-102.
- (3) "Assessment bonds" is as defined in Section 11-42-102.
- (4) "Authority" means the Utah Energy Infrastructure Authority created in Section 63H-2-201.
- (5) "Authority bond" means a bond issued by the authority in accordance with Part 4, Bonding.
- (6) "Board" means the board created under Section 63H-2-202.
- (7) "Community" means the county, city, or town in which is located a qualifying energy delivery project financed by an authority bond.
- (8) "Electric interlocal entity" has the same meaning as defined in Section 11-13-103.
- (9) "Energy advisor" means the governor's energy advisor appointed under Section 63M-4-201.
- (10) "Energy delivery project" means a project that is designed to:
 - (a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or
 - (b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.
- (11) "Independent state agency" is as defined in Section 63E-1-102.
- (12) "Project area" is as defined in Section 17C-1-102.
- (13) "Public entity" means:
 - (a) the United States or an agency of the United States;
 - (b) the state or an agency of the state;
 - (c) a political subdivision of the state or an agency of a political subdivision of the state;
 - (d) another state or an agency of that state; or
 - (e) a political subdivision of another state or an agency of that political subdivision.
- (14) "Qualifying energy delivery project" means a project approved by the board in accordance with Part 3, Qualifying Energy Delivery Projects.
- (15) "Record" means information that is:
 - (a) inscribed on a tangible medium; or
 - (b)
 - (i) stored in an electronic or other medium; and

- (ii) retrievable in perceivable form.
- (16) "Tax increment bond" is as defined in Section 11-27-2.

Amended by Chapter 301, 2014 General Session

Part 2

Organization or Dissolution

63H-2-201 Creation of Utah Energy Infrastructure Authority.

- (1) There is created an independent state agency known as the "Utah Energy Infrastructure Authority."
- (2) Subject to Section 63H-2-203, the authority may:
 - (a) sue and be sued;
 - (b) enter into contracts generally;
 - (c)
 - (i) accept financial or other assistance from a public or private source for the authority's activities, powers, and duties; and
 - (ii) expend money received under Subsection (2)(c)(i) for the purpose of building or enhancing the state's energy delivery infrastructure;
 - (d)
 - (i) for the purpose of studying a qualifying transmission project, borrow money or accept financial or other assistance from:
 - (A) a public entity; or
 - (B) any other source; and
 - (ii) comply with a condition of a loan or assistance described in Subsection (2)(d)(i);
 - (e) in accordance with Part 4, Bonding, issue one or more bonds to finance a qualifying energy delivery project;
 - (f) hire one or more employees, including:
 - (i) a contract employee; and
 - (ii) legal counsel;
 - (g) enter into a partnership agreement with a business entity related to a qualifying energy delivery project;
 - (h) enter into an agreement with a public entity related to a qualifying energy delivery project;
 - (i) if none of the authority's net earnings inure to the benefit of a private entity, use money available to the authority:
 - (i) for administrative, overhead, legal, or other operating expenses of the authority; and
 - (ii) to pay the principal and interest on an authority bond;
 - (j) create one or more subsidiaries to engage in an activity that the authority may engage in under this chapter;
 - (k) transact other business related to a qualifying energy delivery project;
 - (l) acquire, own, lease, or sell real property or personal property related to a qualifying energy delivery project; or
 - (m) exercise a power provided for in this chapter.
- (3) Unless expressly provided in this chapter, the state is not liable for an obligation, expense, debt, or liability of the authority.

Amended by Chapter 37, 2012 General Session

63H-2-202 Authority board.

- (1) There is created the Utah Energy Infrastructure Authority Board that consists of nine members, appointed by the governor as follows:
 - (a) the energy advisor, who shall serve as chair of the board;
 - (b) one member from the Governor's Office of Economic Development;
 - (c) three members from a public utility or electric interlocal entity that operates electric transmission facilities within the state as follows:
 - (i) one member selected by the governor from recommendations from an investor-owned electric corporation that operates in this state;
 - (ii) one member selected by the governor from recommendations from a wholesale electrical cooperative, as defined in Section 54-2-1, in the state; and
 - (iii) one member selected by the governor from recommendations from an electric interlocal entity;
 - (d) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201;
 - (e) two representatives of business entities that produce energy; and
 - (f) one member of the general public who has experience with public finance and bonding.
- (2)
 - (a) The term of a board member is four years.
 - (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) The governor may remove a member of the board for cause.
 - (d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.
 - (e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.
 - (f) A board member shall serve until a successor is appointed and qualified.
- (3)
 - (a) Five members of the board constitute a quorum for conducting board business.
 - (b) A majority vote of the quorum present is required for an action to be taken by the board.
- (4)
 - (a) The board shall meet at least quarterly on a date the board sets.
 - (b) The chair of the board or any two members of the board may call additional meetings.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 37, 2012 General Session

63H-2-203 Powers of the board and authority -- Officers.

- (1)
 - (a) The authority is governed by the board.
 - (b) Only the board may exercise a power of the authority.

- (2) Subject to the other provisions of this chapter, the board shall:
 - (a) manage and conduct the activities of the authority; and
 - (b) determine the policies of the authority.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary to implement this chapter.
- (4) The board may:
 - (a) appoint one or more officers and employees required for the performance of the board's duties under this chapter; and
 - (b) fix and determine the qualifications and duties of an officer or employee described in Subsection (4)(a).

Enacted by Chapter 378, 2009 General Session

63H-2-204 Dissolution of authority.

- (1) Subject to the other provisions of this section, the board may dissolve the authority:
 - (a) if the board determines that the authority can no longer comply with the requirements of this chapter; and
 - (b) by a vote of at least five members of the board.
- (2) The authority may not be dissolved if the authority has any of the following:
 - (a) an outstanding bonded indebtedness;
 - (b) an unpaid loan, indebtedness, or advance; or
 - (c) a legally binding contractual obligation with a person other than the state.
- (3) Upon the dissolution of the authority:
 - (a) the Governor's Office of Economic Development shall publish a notice of dissolution:
 - (i) in a newspaper of general circulation in each county in which a qualifying energy delivery project is located; and
 - (ii) electronically, in accordance with Section 45-1-101;
 - (b) the authority shall deposit its records with the state auditor, to be retained for the time period determined by the state auditor; and
 - (c) the assets of the authority shall revert to the state.
- (4) The authority shall pay the expenses of dissolution and winding up the affairs of the authority.
- (5) If a dissolution under this section is part of a privatization of the authority, the dissolution is subject to Title 63E, Chapter 1, Part 4, Privatization of Independent Entities.

Amended by Chapter 37, 2012 General Session

Part 3

Qualifying Energy Delivery Projects

63H-2-301 Prioritization of energy delivery projects.

- (1) The board shall review the location and availability of energy sources in the state.
- (2) The board shall:
 - (a) determine if there is adequate infrastructure and capacity to bring energy sources to market;
 - (b) prioritize projects on the basis of:
 - (i) location;
 - (ii) supporting responsible energy development;

- (iii) feasibility of development; and
- (iv) economic development factors; and
- (c) provide available funding to develop energy resource plans to provide for energy infrastructure development, including development of an integrated resource plan.

Amended by Chapter 37, 2012 General Session

63H-2-302 Approval of qualifying energy delivery project.

- (1) To approve a qualifying energy delivery project, the board shall determine that the project:
 - (a) contributes to the economy of the state and the one or more communities where the project is located;
 - (b) is strategically situated to maximize connections to an energy source project located in the state that is:
 - (i) existing;
 - (ii) under construction;
 - (iii) planned; or
 - (iv) foreseeable;
 - (c) is supported by a business case for providing the revenue necessary to:
 - (i) service an authority bond issued to finance the project; and
 - (ii) finance the construction and operation of a project;
 - (d) is supported by a project plan related to:
 - (i) engineering;
 - (ii) environmental issues;
 - (iii) energy production;
 - (iv) load or other capacity; and
 - (v) any other issue related to the building and operation of energy delivery infrastructure;
 - (e) complies with the regulations of the following regarding the building of energy delivery infrastructure:
 - (i) the Federal Energy Regulatory Commission;
 - (ii) the North American Electric Reliability Council; and
 - (iii) the Public Service Commission of Utah; and
 - (f) promotes responsible energy development.
- (2) This chapter may not be used to compel interconnection to or use of a transmission or interconnection line or facility that belongs to another person.

Amended by Chapter 37, 2012 General Session

Part 4 Bonding

63H-2-401 Resolution authorizing issuance of authority bond -- Characteristics of bond.

- (1)
 - (a) Subject to the other requirements of this part, the authority may issue a bond:
 - (i) if the authority obtains the consent of the agency or municipality in which the assessment area or project area is located, to finance, in whole or in part, a qualifying energy delivery project; or

- (ii) to:
 - (A) finance the purchase of one or more assessment bonds or tax increment bonds issued by a municipality or agency to facilitate an energy delivery project in a specific assessment area or project area; and
 - (B) administer an assessment area or project area that generates revenue to pay the debt service on an assessment bond or a tax increment bond described in Subsection (1)(a)(ii)(A).
- (b) The authority may not issue a bond under this part unless before the issuance of the bond, the board adopts a resolution authorizing the issuance of the bond.
- (2)
 - (a) If provided in a resolution authorizing the issuance of an authority bond or in the trust indenture under which the authority bond is issued, an authority bond may be:
 - (i) issued in one or more series; and
 - (ii) sold:
 - (A) at a public or private sale; and
 - (B) in the manner provided in the resolution or indenture.
 - (b) An authority bond shall:
 - (i) bear the date provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (ii) be payable at the time provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (iii) bear interest at the rate provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (iv) be in the denomination and in the form provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (v) carry the conversion or registration privileges provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (vi) have the rank or priority as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (vii) be executed in the manner as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (viii) be subject to the terms of redemption or tender, with or without premium, as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;
 - (ix) be payable in the medium of payment and at the place as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued; and
 - (x) have other characteristics as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued.

Amended by Chapter 301, 2014 General Session

63H-2-402 Sources from which an authority bond may be made payable -- Authority powers regarding authority bond.

- (1) The principal and interest on an authority bond may be made payable from:
 - (a) the income and revenues related to a qualifying energy delivery project financed with the proceeds of the authority bond;

- (b) the income and revenues from a public or private source under Subsection 63H-2-201(2)(c);
 - (c) a contribution, loan, grant, or other financial assistance from a public entity or other source under Subsection 63H-2-201(2)(d);
 - (d) authority revenues generally; or
 - (e) money derived from a combination of the methods listed in Subsections (1)(a) through (d).
- (2) In connection with the issuance of an authority bond, the authority may:
- (a) pledge all or any part of the authority's gross or net revenues to which the authority:
 - (i) has a right that exists at issuance of the authority bond; or
 - (ii) may have a right that comes into existence after issuance of the authority bond; and
 - (b) even if a covenant or action is not specifically enumerated in this chapter, make a covenant or take an action that:
 - (i) may be necessary, convenient, or desirable to secure the authority bond; or
 - (ii) except as otherwise provided in this chapter, will tend to make the authority bond more marketable.
- (3) A member of the board or other person executing an authority bond is not liable personally on the authority bond.
- (4)
- (a) An authority bond:
 - (i) is not a general obligation or liability of the state or any of the state's political subdivisions; and
 - (ii) does not constitute a charge against the general credit or taxing powers of the state or any of the state's political subdivisions.
 - (b) An authority bond is not payable out of money or properties other than those of the authority pledged for the payment of the bond.
 - (c) A community, the state, or a political subdivision of the state may not be liable on an authority bond.
 - (d) An authority bond does not constitute indebtedness within the meaning of a constitutional or statutory debt limitation.
- (5) An authority bond is fully negotiable.
- (6) An authority bond is:
- (a) issued for an essential public and governmental purpose; and
 - (b) together with interest on the authority bond and income from the authority bond, exempt from state taxes except the corporate franchise tax.
- (7) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on the authority's rents, fees, grants, properties, or revenues.

Amended by Chapter 37, 2012 General Session

63H-2-403 Purchaser of an authority bond.

- (1) The following may purchase an authority bond with funds owned or controlled by the purchaser:
 - (a) a person;
 - (b) a political subdivision of the state;
 - (c) another entity; or
 - (d) a public or private officer.
- (2) Nothing in this section or Section 63H-2-402 may be construed to relieve a purchaser of an authority bond of a duty to exercise reasonable care in selecting securities.
- (3) The authority may purchase its own authority bond at a price that the board determines.

Enacted by Chapter 378, 2009 General Session

63H-2-404 Obligee rights -- Board may confer other rights.

- (1) In addition to a right that is conferred on an obligee of an authority bond under this chapter and subject to contractual restrictions binding on the obligee, an obligee may:
- (a) by mandamus, suit, action, or other proceeding:
 - (i) compel the authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in a contract of the authority with or for the benefit of the obligee; and
 - (ii) require the authority to carry out the covenants and agreements of the authority and to fulfill the duties imposed on the authority by this part; and
 - (b) by suit, action, or proceeding in equity, enjoin an act or things that may be unlawful or violate the rights of the obligee.
- (2)
- (a) In a resolution authorizing the issuance of an authority bond or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in an authority bond, a right described in Subsection (2)(b):
 - (i) to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract; and
 - (ii) to be exercised by suit, action, or proceeding in a court of competent jurisdiction.
 - (b)
 - (i) A right that the board may confer under Subsection (2)(a) is a right to:
 - (A) cause possession of all or part of a qualifying energy delivery project to be surrendered to an obligee;
 - (B) obtain the appointment of a receiver of all or part of:
 - (I) a qualifying energy delivery project; and
 - (II) the rents and profits from a qualifying energy delivery project; and
 - (C) require the authority, its board, and its employees to account as if the authority, board, and employees were the trustees of an express trust.
 - (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:
 - (A) may:
 - (I) enter and take possession of a qualifying energy delivery project or any part of the qualifying energy delivery project;
 - (II) operate and maintain the qualifying energy delivery project; and
 - (III) collect and receive the fees, rents, revenues, or other charges arising from the qualifying energy delivery project after the receiver's appointment; and
 - (B) shall:
 - (I) keep money collected as receiver for the authority in one or more separate accounts; and
 - (II) apply the money collected as receiver pursuant to the authority obligations as the court directs.

Amended by Chapter 37, 2012 General Session

Part 5

General Operational Requirements

63H-2-501 Fiscal year.

The authority's fiscal year is the period:

- (1) beginning on July 1; and
- (2) ending on June 30 of the following calendar year.

Enacted by Chapter 378, 2009 General Session

63H-2-502 Annual authority budget -- Auditor forms -- Requirement to file form.

- (1)
 - (a) The authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.
 - (b) Before June 22 of each year and subject to the other provisions of this section, the board shall adopt an annual budget of revenues and expenditures of the authority for the immediately following fiscal year.
- (2)
 - (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.
 - (b) Before holding the public hearing required by this Subsection (2), the board shall post notice of the public hearing on the Utah Public Notice Website created under Section 63F-1-701 no less than 14 days before the day on which the public hearing is to be held.
- (3) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget of the authority, including:
 - (a) revenues and expenditures for the budget year;
 - (b) the outstanding bonds and related expenses;
 - (c) legal fees; and
 - (d) administrative costs, including:
 - (i) rent;
 - (ii) supplies;
 - (iii) other materials; and
 - (iv) salaries of authority personnel.
- (4) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with:
 - (a) the State Tax Commission; and
 - (b) the state auditor.
- (5)
 - (a) Subject to Subsection (5)(b), the board may by resolution amend an annual budget of the authority.
 - (b) The board may make an amendment of an annual budget that would increase total expenditures of the authority only after:
 - (i) holding a public hearing; and
 - (ii) before holding the public hearing required by this Subsection (5)(b), posting notice of the public hearing on the Utah Public Notice Website created under Section 63F-1-701 no less than 14 days before the day on which the public hearing is to be held.
- (6) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 378, 2009 General Session

63H-2-503 Audits.

- (1) The state auditor may audit or contract with an independent certified public accountant to audit the books and accounts of the authority, including compliance with this chapter.
- (2) The authority shall reimburse the state auditor from the authority's available money for the actual and necessary costs of an audit conducted under Subsection (1).

Enacted by Chapter 378, 2009 General Session

63H-2-504 Relation to other state statutes.

- (1) The authority is subject to review by the Retirement and Independent Entities Committee in accordance with Title 63E, Chapter 1, Independent Entities Act.
- (2) The authority is subject to:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 51, Chapter 7, State Money Management Act;
 - (c) Title 52, Chapter 4, Open and Public Meetings Act;
 - (d) Title 63A, Utah Administrative Services Code;
 - (e) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (f) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (g) Title 63G, Chapter 4, Administrative Procedures Act;
 - (h) Title 63G, Chapter 6a, Utah Procurement Code;
 - (i) Title 63J, Chapter 1, Budgetary Procedures Act;
 - (j) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
 - (k) Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 347, 2012 General Session

Chapter 3

Utah Science Center Authority

63H-3-101 Short title.

This chapter is known as the "Utah Science Center Authority."

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-102 Legislative findings -- State purpose.

- (1) The Legislature finds and declares that:
 - (a) a Utah Science Center Authority can promote science, Utah's effort in high technology, engineering, the arts, culture, Utah's unique origins, and can enhance tourism and provide a valuable educational forum, and other benefits for Utah's citizens; and
 - (b) fostering the development of science, arts, tourism, culture, and educational facilities is a state purpose affecting the welfare of all state citizens and the growth of the economy statewide.

- (2) It is therefore the purpose of this chapter that the state provide a means to foster the development of science, technology, engineering, arts, tourism, cultural, and educational facilities in order to further the welfare of the citizens of the state and its economic growth.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-103 Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

- (1) There is created an independent state agency and a body politic and corporate known as the "Utah Science Center Authority."
- (2)
- (a) The authority is composed of 13 members.
 - (b) The governor shall appoint:
 - (i) three members representing the informal science and arts community that could include members from the board of directors of the Hansen Planetarium, the Hogle Zoo, the Children's Museum of Utah, the Utah Museum of Natural History, and other related museums, centers, and agencies;
 - (ii) one member of the State Board of Education;
 - (iii) one member of the Department of Heritage and Arts;
 - (iv) one member of the Board of Tourism Development;
 - (v) one member of the State Board of Regents; and
 - (vi) three public members representing Utah industry, the diverse regions of the state, and the public at large.
 - (c) The county legislative body of Salt Lake County shall appoint one member to represent Salt Lake County.
 - (d) The mayor of Salt Lake City shall appoint one member to represent Salt Lake City Corporation.
 - (e) The State Science Advisor or the advisor's designee is also a member of the authority.
 - (f) In appointing the three public members, the governor shall ensure that there is representation from the science, technology, and business communities.
- (3) All members shall be residents of Utah.
- (4) Each member is appointed for four-year terms beginning July 1 of the year appointed.
- (5)
- (a) Except as required by Subsection (5)(b), as terms of current authority members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.
- (6) A member may be removed from office by the governor or for cause by an affirmative vote of nine members of the authority.
- (7) When a vacancy occurs in the membership for any reason, the replacement is appointed by the governor for the unexpired term.
- (8) Each public member shall hold office for the term of the member's appointment and until the member's successor has been appointed and qualified.
- (9) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.
- (10) The governor shall appoint the chair of the authority from among its members.

- (11) The members shall elect from among their number a vice chair and other officers they may determine.
- (12) The chair and vice chair are elected for two-year terms.
- (13) The powers of the authority are vested in its members.
- (14) Seven members constitute a quorum for transaction of authority business.
- (15) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 212, 2012 General Session

63H-3-104 Executive director -- Powers and duties.

- (1)
 - (a) The members shall appoint an executive director who shall be an employee of the authority, but who may not be a member of the authority.
 - (b) The executive director serves at the pleasure of the members and receives compensation as set by the members and approved by the governor.
- (2) The executive director shall:
 - (a) administer, manage, and direct the affairs and activities of the authority in accordance with the policies, control, and direction of the members;
 - (b) approve all accounts for allowable expenses of the authority or of any of its employees and expenses incidental to the operation of the authority;
 - (c) attend the meetings of the authority;
 - (d) keep a record of the proceedings of the authority;
 - (e) maintain and be custodian of all books, documents, and papers filed with the authority; and
 - (f) perform other duties as directed by the members in carrying out the purposes of this part.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-105 Member or employee -- Disclosure of interest.

- (1) A member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of that interest in writing to the authority as soon as the member has knowledge of the actual or prospective interest.
- (2) This disclosure shall be entered upon the minutes of the authority.
- (3) Upon this disclosure that member or employee may participate in any action by the authority authorizing the transaction.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-106 Officer or employee -- No forfeiture of office or employment.

Notwithstanding the provisions of any other law, an officer or employee of this state does not forfeit an office of or employment within the state by reason of the person's acceptance of membership on the authority or service on it.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-107 Authority -- Powers.

- (1)
 - (a) The authority shall create, operate, and maintain a center that promotes the purposes described in Section 63H-3-102.
 - (b) The center shall:
 - (i) have an extensive outreach program that serves all regions of the state; and
 - (ii) collaborate and coordinate with education, arts, technology, and engineering entities, including schools and industries.
- (2) The authority has perpetual succession as a body politic and corporate and may:
 - (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;
 - (b) sue and be sued in its own name;
 - (c) maintain an office at a place within this state it designates;
 - (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business;
 - (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;
 - (f) employ experts, advisory groups, and other professionals it considers necessary;
 - (g) employ and retain independent legal counsel;
 - (h) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its duties under this chapter to create, operate, and maintain a Science Center in Utah;
 - (i) procure insurance for liability and against any loss in connection with its property and other assets in amounts and from insurers it considers desirable;
 - (j) borrow money, receive appropriations from the Legislature, and receive other public money and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants and contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States or of this state for any purpose consistent with this chapter;
 - (k) enter into agreements with any department, agency, or instrumentality or political subdivision of the United States or this state for the purpose of providing for the creation, operation, and maintenance of a Science Center in Utah; and
 - (l) to do any act necessary or convenient to the exercise of the powers granted by this chapter.
- (3)
 - (a) All money received by the authority under Subsection (2)(j) and from any other source is for the exclusive use of the authority to create, operate, maintain, improve, and provide for a Science Center in Utah.
 - (b) The money received by the authority may not be used for any other purpose or by any other entity.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-108 Actions on validity or enforceability of bonds -- Time for bringing action.

- (1) In a suit, action, or proceeding involving the validity or enforceability of a bond issued under this chapter or the security for them, the bond reciting in substance that it has been issued by the authority in connection with the Utah Science Center is conclusively considered to have been issued for that purpose.

- (2)
- (a) After receiving notice described in Subsection (2)(a)(ii), a person may contest:
 - (i)
 - (A) the legality of a resolution;
 - (B) notice of bonds to be issued; or
 - (C) a provision made for the security and payment of the bonds; and
 - (ii) for a period of 30 days after the publication of the resolution authorizing the bonds, or a notice of bonds to be issued by the authority containing those items described in Section 11-14-316:
 - (A) in a newspaper having general circulation in the area of operation; and
 - (B) as required in Section 45-1-101.
 - (b) After the 30-day period no one has any cause of action to contest the regularity, formality, or legality of the notice of bonds to be issued or the bonds for any cause whatsoever.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-3-109 Relation to certain acts.

- (1) The authority is exempt from:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 63A, Chapter 1, Department of Administrative Services;
 - (c) Title 63G, Chapter 6a, Utah Procurement Code;
 - (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
 - (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The authority is subject to audit by:
 - (a) the state auditor pursuant to Title 67, Chapter 3, Auditor; and
 - (b) the legislative auditor general pursuant to Section 36-12-15.
- (3) The authority shall annually report to the Retirement and Independent Entities Committee created under Section 63E-1-201 concerning the authority's implementation of this part.

Amended by Chapter 347, 2012 General Session

63H-3-110 Sales tax exemption.

The authority and its operators are exempt from sales and use tax imposed under Title 59, Chapter 12, Sales and Use Tax Act.

Renumbered and Amended by Chapter 370, 2011 General Session

Chapter 4

Heber Valley Historic Railroad Authority

63H-4-101 Title.

This chapter is known as the "Heber Valley Historic Railroad Authority."

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-102 Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

- (1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."
- (2) The authority is composed of eight members as follows:
 - (a) one member of the county legislative body of Wasatch County;
 - (b) the mayor of Heber City;
 - (c) the mayor of Midway;
 - (d) the executive director of the Department of Transportation or the executive director's designee;
 - (e) the executive director of Parks and Recreation, or the executive director's designee; and
 - (f) three public members appointed by the governor with the consent of the Senate, being private citizens of the state, as follows:
 - (i) two people representing the tourism industry, one each from Wasatch and Utah counties; and
 - (ii) one person representing the public at large.
- (3) All members shall be residents of the state.
- (4)
 - (a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.
 - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.
- (5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.
- (6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with consent of the Senate for the unexpired term.
- (7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.
- (8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.
- (9) The governor shall appoint the chair of the authority from among its members.
- (10) The members shall elect from among their number a vice chair and other officers they may determine.
- (11) The powers of the authority are vested in its members.
- (12)
 - (a) Four members constitute a quorum for transaction of authority business.
 - (b) An affirmative vote of at least four members is necessary for any action taken by the authority.
- (13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 308, 2011 General Session

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-103 Executive director -- Powers and duties.

- (1)
 - (a) The members shall appoint an executive director who is an employee of the authority, but who is not a member of the authority.
 - (b) The executive director serves at the pleasure of the members and receives compensation as set by the members and approved by the governor.
- (2) The executive director shall:
 - (a) administer, manage, and direct the affairs and activities of the authority in accordance with the policies, control, and direction of the members;
 - (b) approve all accounts for allowable expenses of the authority or of any of its employees and expenses incidental to the operation of the authority;
 - (c) attend the meetings of the authority;
 - (d) keep a record of the proceedings of the authority;
 - (e) maintain and be custodian of all books, documents, and papers filed with the authority; and
 - (f) perform other duties as directed by the members in carrying out the purposes of this chapter.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-104 Member or employee -- Disclosure of interest.

- (1) A member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of that interest in writing to the authority as soon as the member or employee has knowledge of the actual or prospective interest.
- (2) This disclosure shall be entered upon the minutes of the authority.
- (3) Upon this disclosure that member or employee may participate in any action by the authority authorizing the transaction.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-105 Officer or employee -- No forfeiture of office or employment.

Notwithstanding the provisions of any other law, an officer or employee of this state does not forfeit an officer's or employee's office or employment by reason of acceptance of membership on the authority or service on it.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-106 Authority -- Powers.

- (1) The authority shall operate and maintain a scenic and historic railroad in and around the Heber Valley.
- (2) The authority has perpetual succession as a body politic and corporate and may:
 - (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;
 - (b) sue and be sued in its own name;
 - (c) maintain an office at a place within this state it designates;
 - (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business;
 - (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;
 - (f) employ experts and other professionals it considers necessary;
 - (g) employ and retain independent legal counsel;

- (h) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its duties under this chapter to operate and maintain a scenic railroad in and around the Heber Valley;
 - (i) procure insurance for liability and against any loss in connection with its property and other assets in amounts and from insurers it considers desirable;
 - (j) receive appropriations from the Legislature and receive other public money and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, subject to the conditions upon which the grants and contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States or of this state for any purpose consistent with this chapter;
 - (k) enter into agreements with any department, agency, or instrumentality of the United States or this state for the purpose of providing for the operation and maintenance of a scenic railway in and around the Heber Valley; and
 - (l) do any act necessary or convenient to the exercise of the powers granted by this chapter.
- (3)
- (a) All money received by the authority under Subsection (2)(j) and from any other source is for the exclusive use of the authority to operate, maintain, improve, and provide for a scenic and historic railway in and around the Heber Valley.
 - (b) The money received by the authority may not be used for any other purpose or by any other entity.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-107 Notes, bonds, other obligation -- Not debt liability -- Expenses payable from funds provided -- Agency without authority to incur liability on behalf of state.

- (1)
- (a) An obligation or liability of the authority does not constitute a debt or liability of this state or of any of its political subdivisions nor does any obligation or liability constitute the loaning of credit of the state or of any of its political subdivisions nor may any obligation or liability of the authority be payable from funds other than those of the authority.
 - (b) All obligations of the authority shall contain a statement to the effect that the authority is obligated to pay them solely from the revenues or other funds of the authority and that this state or its political subdivisions are not obligated to pay them and that neither the faith and credit nor the taxing power of this state or any of its political subdivisions is pledged to the payment of them.
- (2) All expenses incurred in carrying out this part are payable solely from money of the authority provided under this chapter, and nothing in this chapter may be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by this state or any of its political subdivisions.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-108 Relation to certain acts -- Participation in Risk Management Fund.

- (1) The authority is exempt from:
- (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 63A, Utah Administrative Services Code;
 - (c) Title 63G, Chapter 6a, Utah Procurement Code;

- (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
- (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.
- (3) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Amended by Chapter 220, 2013 General Session

63H-4-109 Duty to maintain rails.

The authority shall maintain the rails, bed, right-of-way, and related property upon which the authority's train shall operate in compliance with state and federal statutes, rules, and regulations.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-110 Lease of rails from Department of Transportation and Division of Parks and Recreation.

The Department of Transportation and the Division of Parks and Recreation shall jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to the authority.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-4-111 Sales tax exemption.

The authority and its operators are exempt from sales and use tax imposed under Title 59, Chapter 12, Sales and Use Tax Act, for their purchases and sales related to the operation and maintenance of a scenic and historic railroad in and around the Heber Valley.

Renumbered and Amended by Chapter 370, 2011 General Session

Chapter 5

Utah State Railroad Museum Authority

63H-5-101 Title.

This chapter is known as the "Utah State Railroad Museum Authority."

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-102 Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

- (1) There is created an independent body politic and corporate known as the "Utah State Railroad Museum Authority," hereafter referred to in this chapter as "the authority."
- (2) The authority is composed of 12 members as follows:
 - (a) one member of the county legislative body of Weber County appointed by that legislative body;
 - (b) one member of the county legislative body of Box Elder County appointed by that legislative body;
 - (c) one member of the city legislative body of Ogden City appointed by that legislative body;

- (d) the executive director of the Department of Transportation or the director's designee; and
 - (e) eight public members appointed by the governor, as follows:
 - (i) two individuals representing the tourism industry, one each from Weber and Box Elder Counties;
 - (ii) one individual representing the public at large; and
 - (iii) five individuals representing railroad historic and heritage preservation organizations active in Weber and Box Elder Counties, as follows:
 - (A) one individual representing the Railroad and Locomotive Historical Society Golden Spike Chapter;
 - (B) one individual representing the Golden Spike Heritage Foundation;
 - (C) one individual representing the Golden Spike Association; and
 - (D) two individuals representing the Corinne Historical Society and the Ogden Union Station.
- (3) All members shall be residents of the state.
- (4)
- (a) Except as required by Subsection (4)(b), the governor shall appoint the seven public members for four-year terms beginning July 1.
 - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members appointed under Subsection (2)(e) are staggered so that approximately one-half of the seven public members are appointed every two years.
- (5) Any of the eight public members may be removed from office by the governor or for cause by an affirmative vote of seven members of the authority.
- (6) When a vacancy occurs in the public membership for any reason, the governor shall appoint a replacement for the unexpired term.
- (7) Each public member shall hold office for the term of the member's appointment and until a successor has been appointed and qualified.
- (8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.
- (9) The governor shall appoint the chair of the authority from among its members.
- (10)
- (a) The members shall elect from among their membership a vice chair and other officers as they may determine.
 - (b) The officers serve as the executive committee for the authority.
- (11) The powers of the authority are vested in its members.
- (12)
- (a) Seven members constitute a quorum for transaction of authority business.
 - (b) An affirmative vote of at least seven members is necessary for an action to be taken by the authority.
- (13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 181, 2013 General Session

63H-5-103 Executive director -- Powers and duties.

(1)

- (a) The members of the authority shall appoint an executive director who is an employee of the authority, but who is not a member of the authority.
- (b) The executive director serves at the pleasure of the members and receives compensation as set by the members and approved by the governor.
- (2) The executive director shall:
 - (a) administer, manage, and direct the affairs and activities of the authority in accordance with the policies, control, and direction of the members of the authority;
 - (b) approve all accounts for allowable expenses of the authority or of any of its employees and expenses incidental to the operation of the authority;
 - (c) attend meetings of the authority;
 - (d) keep a record of the proceedings of the authority;
 - (e) maintain and be the custodian of all books, documents, and papers filed with the authority;
 - (f) document and maintain records concerning ownership of all assets owned or under the control of the authority; and
 - (g) perform other duties as directed by the members of the authority in carrying out the purposes of this chapter.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-104 Member or employee -- Disclosure of interest.

- (1) A member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of that interest in writing to the authority as soon as the individual has knowledge of the actual or prospective interest.
- (2) The disclosure shall be entered upon the minutes of the authority.
- (3) After making the disclosure, the member or employee may participate in any action by the authority authorizing the transaction.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-105 Officer or employee -- No forfeiture of office or employment.

Notwithstanding any other provision of law, an officer or employee of this state does not forfeit the office or employment with the state by reason of acceptance of membership on the authority or service on it.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-106 Authority -- Powers.

- (1) The authority shall:
 - (a) facilitate or operate and maintain a scenic and historic railroad in and around Weber and Box Elder Counties;
 - (b) facilitate or operate and maintain one or more railroad history museums in and around Weber and Box Elder Counties;
 - (c) facilitate the restoration, preservation, and public display of railroad artifacts and heritage in and around Weber and Box Elder Counties; and
 - (d) facilitate the restoration, preservation, and operation of historically significant railroad related properties in and around Weber and Box Elder Counties for public benefit.
- (2) The authority has perpetual succession as a body politic and corporate and may:

- (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs and the conduct of its business;
 - (b) sue and be sued in its own name;
 - (c) maintain an office at a place it designates within the state;
 - (d) adopt, amend, and repeal bylaws and rules, consistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business;
 - (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;
 - (f) employ experts and other professionals it considers necessary;
 - (g) employ and retain independent legal counsel;
 - (h) make and execute contracts and all other instruments necessary or convenient for the performance of its duties under this chapter as described in Subsection (1);
 - (i) procure insurance for liability and against any loss in connection with its property and other assets in amounts and from insurers it considers desirable;
 - (j) receive appropriations from the Legislature and receive other public money and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, subject to the conditions upon which the grants and contributions are made, including gifts or grants from a department, agency, or instrumentality of the United States or of this state for any purpose consistent with this chapter;
 - (k) enter into agreements with a department, agency, or instrumentality of the United States or this state for the purpose of providing for the operation and maintenance of a scenic railway in and around Weber and Box Elder Counties; and
 - (l) do any act necessary or convenient to the exercise of the powers granted to the authority by this chapter.
- (3)
- (a) All money received by the authority under Subsection (2)(j) and from any other source is for the exclusive use of the authority in the performance and exercise of its duties under this chapter as described in Subsection (1).
 - (b) Money received by the authority may not be used for any other purpose or by any other entity.

Amended by Chapter 342, 2011 General Session

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-107 Notes, bonds, other obligation -- Not debt liability -- Expenses payable from funds provided -- Agency without authority to incur liability on behalf of state.

- (1)
- (a) An obligation or liability of the authority does not constitute:
 - (i) a debt or liability of the state or of any of its political subdivisions; or
 - (ii) the loaning of credit of the state or of any of its political subdivisions.
 - (b) An obligation or liability of the authority is payable only from money of the authority.
- (2) An obligation of the authority shall contain a statement to the effect:
- (a) that the authority is obligated to pay the obligation solely from the revenues or other money of the authority;
 - (b) that neither the state nor its political subdivisions are obligated to pay it; and
 - (c) that neither the faith and credit nor the taxing power of the state or any of its political subdivisions is pledged to the payment of the obligation.
- (3)

- (a) Expenses incurred in carrying out this chapter are payable solely from money of the authority provided under this chapter.
- (b) Nothing in this chapter authorizes the authority to incur indebtedness or liability on behalf of or payable by the state or any of its political subdivisions.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-108 Relation to certain acts.

- (1) The authority is exempt from:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 63A, Chapter 1, Department of Administrative Services;
 - (c) Title 63G, Chapter 6a, Utah Procurement Code;
 - (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
 - (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

Amended by Chapter 347, 2012 General Session

63H-5-109 Duty to maintain rails and operating equipment.

The authority shall maintain the rails, bed, right-of-way, and related property owned by the authority upon which the authority's train operates in compliance with state and federal statutes, rules, and regulations.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-5-110 Lease of rails or equipment from Department of Transportation and Division of Parks and Recreation.

The Department of Transportation and the Division of Parks and Recreation may jointly lease the rails, bed, right-of-way, and related property for the operation of a scenic and historic railroad in and around Weber and Box Elder Counties, for not more than \$1 per year to the authority.

Renumbered and Amended by Chapter 370, 2011 General Session

Chapter 6

Utah State Fair Corporation Act

63H-6-101 Title.

This chapter is known as the "Utah State Fair Corporation Act."

Renumbered and Amended by Chapter 370, 2011 General Session

63H-6-102 Definitions.

As used in this chapter:

- (1) "Board" means the board of directors of the corporation.
- (2) "Corporation" means the Utah State Fair Corporation created by this chapter.

- (3) "State fair park" means the property owned by the state located at 155 North 1000 West, Salt Lake City, Utah.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-6-103 Utah State Fair Corporation -- Legal status -- Powers.

- (1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."
- (2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.
- (3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.
- (4) The corporation shall, subject to approval of the board:
- (a) have general management, supervision, and control over all activities relating to the state fair and have charge of all state expositions except as otherwise provided by statute;
 - (b) for public entertainment, displays, and exhibits or similar events:
 - (i) provide, sponsor, or arrange the events;
 - (ii) publicize and promote the events; and
 - (iii) secure funds to cover the cost of the exhibits from:
 - (A) private contributions;
 - (B) public appropriations;
 - (C) admission charges; and
 - (D) other lawful means;
 - (c) establish the time, place, and purpose of state expositions; and
 - (d) acquire and designate exposition sites.
- (5)
- (a) The corporation shall:
 - (i) use generally accepted accounting principles in accounting for its assets, liabilities, and operations;
 - (ii) seek corporate sponsorships for the state fair park and for individual buildings or facilities within the fair park;
 - (iii) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;
 - (iv) develop and maintain a marketing program to promote expositions and the use of the state fair park;
 - (v) in cooperation with the Division of Facilities Construction and Management, maintain the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;
 - (vi) hold an annual exhibition that:
 - (A) is called the state fair or a similar name;
 - (B) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral, and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;
 - (C) includes the award of premiums for the best specimens of the exhibited articles and animals;

- (D) permits competition by livestock exhibited by citizens of other states and territories of the United States; and
- (E) is arranged according to plans approved by the board;
- (vii) fix the conditions of entry to the exposition described in Subsection (5)(a)(vi); and
- (viii) publish a list of premiums that will be awarded at the exhibition described in Subsection (5)(a)(vi) for the best specimens of exhibited articles and animals.
- (b) In addition to the state fair to be held in accordance with Subsection (5)(a)(vi), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral, and industrial products, manufactured articles, and domestic animals that, in its opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.
- (6) The corporation may:
 - (a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;
 - (b)
 - (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or
 - (ii) procure insurance against any loss in connection with its property and other assets, including mortgage loans;
 - (c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;
 - (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;
 - (e) enter into management agreements with any person or entity for the performance of its functions or powers;
 - (f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;
 - (g) enter into agreements for the leasing of any of the facilities at the state fair park, if approved by the board; and
 - (h) sponsor events as approved by the board.
- (7)
 - (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:
 - (i) Title 51, Chapter 5, Funds Consolidation Act;
 - (ii) Title 51, Chapter 7, State Money Management Act;
 - (iii) Title 63A, Utah Administrative Services Code;
 - (iv) Title 63G, Chapter 6a, Utah Procurement Code;
 - (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
 - (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
 - (b) The board shall adopt policies parallel to and consistent with:
 - (i) Title 51, Chapter 5, Funds Consolidation Act;
 - (ii) Title 51, Chapter 7, State Money Management Act;
 - (iii) Title 63A, Utah Administrative Services Code;
 - (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
 - (v) Title 63J, Chapter 1, Budgetary Procedures Act.
 - (c) The corporation shall comply with the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).

Amended by Chapter 20, 2012 General Session
Amended by Chapter 347, 2012 General Session

63H-6-104 Board of Directors -- Membership -- Term -- Quorum -- Vacancies.

- (1) The corporation is governed by a board of directors.
- (2) The board is composed of 13 members as follows:
 - (a) the director of the Division of Facilities Construction and Management or the director's designee;
 - (b) the commissioner of agriculture and food or the commissioner's designee; and
 - (c) 11 members appointed by the governor with the consent of the Senate as follows:
 - (i) two members of the board who are residents of Salt Lake County in which the state fair is held;
 - (ii) seven members of the board who are not residents of Salt Lake County and are each a resident of a different county than any other member under this Subsection (2)(c)(ii); and
 - (iii) two members of the board who represent agricultural interests.
- (3)
 - (a)
 - (i) Except as provided in Subsection (3)(a)(ii), the governor shall appoint board members to serve terms that expire on the December 1 four years after the year that the board member was appointed.
 - (ii) In making appointments to the board, the governor shall ensure that the terms of approximately 1/4 of the board expire each year.
 - (b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.
 - (c)
 - (i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the governor shall appoint a replacement.
 - (ii) The governor may remove an appointed member of the board at will.
 - (d) The governor shall fill any vacancy that occurs on the board for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.
- (4) The governor shall select the board's chair.
- (5) Seven members of the board are a quorum for the transaction of business.
- (6) The board may elect a vice chair and any other board offices.

Amended by Chapter 139, 2014 General Session

63H-6-105 Executive director.

- (1)
 - (a) The board shall:
 - (i) hire an executive director for the corporation as provided in this subsection;
 - (ii) conduct a national search to find applicants for the position of executive director; and
 - (iii) establish the salary, benefits, and other compensation of the executive director.
 - (b) The board may appoint an interim director while searching for a permanent executive director.
 - (c) The executive director serves at the pleasure of the board and may be terminated by the board at will.

- (d) The executive director is an employee of the corporation.
- (e) The executive director may not be a member of the board.
- (2) The executive director shall:
 - (a) act as the executive officer of the board and the corporation;
 - (b) administer, manage, and direct the affairs and activities of the corporation in accordance with the policies and under the control and direction of the board;
 - (c) keep the board, the governor, the Legislature, and its agencies, and other affected officers, associations, and groups informed about the operations of the corporation;
 - (d) recommend to the board any necessary or desirable changes in the statutes governing the corporation;
 - (e) recommend to the board an annual administrative budget covering the operations of the corporation and, upon approval, submit the budget to the governor and the Legislature for their examination and approval;
 - (f) after approval, direct and control the subsequent expenditures of the budget;
 - (g) employ, within the limitations of the budget, staff personnel and consultants to accomplish the purpose of the corporation, and establish their qualifications, duties, and compensation;
 - (h) keep in convenient form all records and accounts of the corporation, including those necessary for the administration of the state fair;
 - (i) in cooperation with the board, create:
 - (i) business plans for the corporation;
 - (ii) a financial plan for the corporation that projects self-sufficiency for the corporation within two years; and
 - (iii) a master plan for the state fair park;
 - (j) approve all accounts for:
 - (i) salaries;
 - (ii) allowable expenses of the corporation and its employees and consultants; and
 - (iii) expenses incidental to the operation of the corporation; and
 - (k) perform other duties as directed by the board.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-6-106 Financial reports -- Audit -- Surety bonds.

- (1)
 - (a) The corporation shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature.
 - (b) The report shall contain:
 - (i) a complete operating report detailing the corporation's activities; and
 - (ii) financial statements of the corporation audited by a certified public accountant according to generally accepted auditing standards.
- (2)
 - (a) At least once a year, the state auditor shall:
 - (i) audit the books and accounts of the corporation; or
 - (ii) contract with a nationally recognized independent certified public accountant to conduct the audit and review the audit report when it is completed.
 - (b) The corporation shall reimburse the state auditor for the costs of the audit.
 - (c) If the audit is conducted by an independent auditor, the independent auditor shall submit a copy of the audit to the state auditor for review within 90 days after the end of the fiscal year covered by the audit.

- (3)
- (a) The corporation shall maintain a surety bond in the penal sum of \$25,000 for each member of the board.
 - (b) The corporation shall maintain a surety bond in the penal sum of \$50,000 for the executive director.
 - (c) The corporation shall ensure that each surety bond is:
 - (i) conditioned upon the faithful performance of the duties of office to which it attaches;
 - (ii) issued by a surety company authorized to transact business in Utah as a surety; and
 - (iii) filed in the office of the State Treasurer.
 - (d) The corporation shall pay the cost of the surety bonds.

Renumbered and Amended by Chapter 370, 2011 General Session

63H-6-107 Enterprise Fund -- Creation -- Revenue -- Uses.

- (1)
- (a) There is created an enterprise fund entitled the Utah State Fair Fund.
 - (b) The executive director shall administer the fund under the direction of the board.
- (2) The fund consists of money generated from the following revenue sources:
- (a) lease payments from person or entities leasing the state fair park or any other facilities owned by the corporation;
 - (b) revenues received from any expositions or other events wholly or partially sponsored by the corporation;
 - (c) aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;
 - (d) appropriations made to the fund by the Legislature; and
 - (e) any other income obtained by the corporation.
- (3)
- (a) The fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.
- (4) The executive director may use fund money to operate, maintain, and support the Utah state fair, the state fair park, and other expositions sponsored by the corporation.

Renumbered and Amended by Chapter 370, 2011 General Session

Chapter 7
Utah Communications Authority Act

Part 1
General Provisions

63H-7-101 Title.

This chapter is known as the "Utah Communications Authority Act."

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-102 Purpose.

The purpose of this chapter is to establish an independent state agency and a board to administer the creation, administration, and maintenance of the Utah Communications Authority to provide a public safety communications network, facilities, and 911 emergency services on a statewide basis for the benefit and use of public agencies, and state and federal agencies.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-103 Definitions.

As used in this chapter:

- (1) "Authority" means the Utah Communications Authority, an independent state agency created in Section 67H-7-201.
- (2) "Board" means the Utah Communications Authority Board created in Section 67H-7-203.
- (3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.
- (4) "Communications network" means:
 - (a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and
 - (b) 911 emergency services, including radio communications, microwave connectivity, FirstNet coordination, and computer aided dispatch system.
- (5) "FirstNet" means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.
- (6) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.
- (7) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.
- (8) "Member" means a public agency which:
 - (a) adopts a membership resolution to be included within the authority; and
 - (b) submits an originally executed copy of an authorizing resolution to the authority's office.
- (9) "Member representative" means a person or that person's designee appointed by the governing body of each member.
- (10) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.
- (11) "Public safety answering point" means an organization, entity, or combination of entities which have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.
- (12) "State" means the state of Utah.
- (13) "State representative" means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.

Renumbered and Amended by Chapter 320, 2014 General Session

Part 2

The Utah Communications Authority and the Board

63H-7-201 Establishment of the Utah Communications Authority.

- (1) There is established the Utah Communications Authority, formerly known as the Utah Communications Agency Network, which shall assume the operations of the Utah Communications Agency Network and shall perform the functions as provided in this chapter.
- (2) The Utah Communications Authority is an independent state agency and not a division within any other department of the state.
- (3) The initial offices of the authority shall be in Salt Lake County, but branches of the office may be established in other areas of the state upon approval of the board.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-202 Powers of the Authority.

The authority shall have the power to:

- (1) sue and be sued in its own name;
- (2) have an official seal and power to alter that seal at will;
- (3) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts with private companies licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act;
- (4) own, acquire, construct, operate, maintain, and repair a communications network, and dispose of any portion of it;
- (5) borrow money and incur indebtedness;
- (6) issue bonds as provided in this chapter;
- (7) enter into agreements with public agencies, the state, and federal government to provide communications network services on terms and conditions it considers to be in the best interest of its members;
- (8) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a communications network and all related facilities and rights-of-way which it owns, operates, and maintains;
- (9) contract with other public agencies, the state, or federal government to provide public safety communications services in excess of those required to meet the needs or requirements of its members and the state and federal government if:
 - (a) it is determined by the board to be necessary to accomplish the purposes and realize the benefits of this chapter; and
 - (b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure:
 - (i) that the excess services will be used only for the purposes and benefits authorized by the authority under Section 63H-7-102; and
 - (ii) that the cost of providing the excess service will be received by the authority;
- (10) provide and maintain the public safety network for all state and local governmental agencies:
 - (a) within the current authority network for the state and local governmental agencies that currently subscribe to the authority;
 - (b) outside of the current authority network for state and local governmental agencies that do not currently subscribe to the authority; and

- (c) in a manner that:
 - (i) promotes high quality, cost effective services; and
 - (ii) evaluates the benefits, costs, existing facilities and equipment, and services of public and private providers;
- (11) maintain the current VHF high-band network;
- (12) review, approve, disapprove, or revise recommendations made by the Utah 911 Committee regarding the expenditure of funds under Sections 69-2-5.5 and 69-2-5.6; and
- (13) perform all other duties authorized by this chapter.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-203 Board established -- Terms -- Vacancies.

- (1) There is created the "Utah Communications Authority Board."
- (2) The board shall consist of the following individuals:
 - (a) the member representatives elected as follows:
 - (i) one representative elected from each county of the first and second class, who:
 - (A) is in law enforcement, fire service, or a public safety answering point; and
 - (B) has a leadership position with public safety communication experience;
 - (ii) one representative elected from each of the seven associations of government who:
 - (A) is in law enforcement, fire service, or a public safety answering point; and
 - (B) has a leadership position with public safety communication experience;
 - (iii) one representative of the Native American tribes elected by the representative of tribal governments listed in Subsection 9-9-104.5(2);
 - (iv) one representative elected by the Utah National Guard;
 - (v) one representative elected by an association that represents fire chiefs;
 - (vi) one representative elected by an association that represents sheriffs;
 - (vii) one representative elected by an association that represents chiefs of police; and
 - (viii) one member elected by the Utah 911 Committee created in Section 63H-7-302; and
 - (b) seven state representatives appointed in accordance with Subsection (3).
- (3)
 - (a)
 - (i) Six of the state representatives shall be appointed by the governor, with two of the positions having an initial term of two years, two having an initial term of three years, and one having an initial term of four years.
 - (ii) Successor state representatives shall each serve for a term of four years.
 - (iii) The six governor-appointed state representatives shall consist of:
 - (A) the executive director of the Utah Department of Transportation or the director's designee;
 - (B) the commissioner of public safety or the commissioner's designee;
 - (C) the executive director of the Department of Natural Resources or the director's designee;
 - (D) the executive director of the Department of Corrections or the director's designee;
 - (E) the chief information officer of the Department of Technology Services, or the officer's designee; and
 - (F) the executive director of the Department of Health or the director's designee.
 - (b) The seventh state representative shall be the Utah State Treasurer or the treasurer's designee.
 - (c) A vacancy on the board for a state representative shall be filled for the unexpired term by appointment by the governor.
- (4)

- (a)
 - (i) One-half of the positions for member representatives selected under Subsection (2) shall have an initial term of two years and one-half of the positions shall have an initial term of four years.
 - (ii) Successor member representatives of the board shall each serve for a term of four years, so that the term of office for six of the member representatives expires every two years.
- (b) The member representatives of the board shall be removable, with or without cause, by the entity that selected the member. A vacancy on the board for a member representative shall be filled for the unexpired term by the entity the member represents.
- (5) The board shall elect annually one of its members as chair.
- (6) The board shall meet on an as-needed basis and as provided in the bylaws.
- (7) The board shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.
 - (a) The vice chair shall be a member of the board.
 - (b) The secretary and treasurer need not be members of the board, but shall not have voting powers if they are not members of the board.
 - (c) The offices of chair, vice chair, secretary, and treasurer shall be held by separate individuals.
- (8) Each member representative and state representative shall have one vote, including the chair, at all meetings of the board.
- (9) A constitutional majority of the members of the board constitutes a quorum. A vote of a majority of the quorum at any meeting of the board is necessary to take action on behalf of the board.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-204 Board -- Powers and duties.

The board shall:

- (1) manage the affairs and business of the authority consistent with this chapter including adopting bylaws by a majority vote of its members;
- (2) appoint an executive director to administer the authority;
- (3) receive and act upon reports covering the operations of the communications network and funds administered by the authority;
- (4) ensure that the communications network and funds are administered according to law;
- (5) examine and approve an annual operating budget for the authority;
- (6) receive and act upon recommendations of the chair;
- (7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the communications network;
- (8) develop broad policies for the long-term operation of the authority for the performance of its functions;
- (9) make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;
- (10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;
- (11) adopt rules consistent with this chapter for the management of the communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the communications network;
- (12) exercise the powers and perform the duties conferred on it by this chapter;
- (13) provide for audits of the authority;

- (14) establish a division within the authority for radio network services;
- (15) establish an office within the authority for a statewide interoperability coordinator; and
- (16) establish an office within the authority for a 911 program manager.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-205 Executive director -- Powers and duties.

The executive director shall:

- (1) act as the executive officer of the authority;
- (2) administer the various acts, systems, plans, programs, and functions assigned to the office;
- (3) with the approval of the board, develop and make administrative rules which are within the authority granted by this title for the administration of the authority;
- (4) recommend to the board any changes in the statutes affecting the authority;
- (5) recommend to the board an annual administrative budget covering administration, management, and operations of the communications network and, upon approval of the board, direct and control the subsequent expenditures of the budget; and
- (6) within the limitations of the budget, employ staff personnel, consultants, a chief financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority.

Renumbered and Amended by Chapter 320, 2014 General Session

Part 3

Offices and Division of the Authority

63H-7-301 911 program manager.

- (1) There is created within the authority the 911 program manager.
- (2) The 911 program manager shall:
 - (a) be appointed by the executive director:
 - (i) based on the recommendation of the Utah 911 Committee; and
 - (ii) with the approval of the board; and
 - (b) provide staff services to the Utah 911 Committee created in Section 63H-7-302.

Enacted by Chapter 320, 2014 General Session

63H-7-302 Utah 911 Committee.

- (1) There is created within the authority the Utah 911 Committee consisting of the following members:
 - (a) one representative from a primary public safety answering point from each county of the first and second class;
 - (b) one representative from a primary public safety answering point representing each of the following:
 - (i) Bear River Association;
 - (ii) Uintah Basin Association;
 - (iii) South East Association;
 - (iv) Six County Association;

- (v) Five County Association;
 - (vi) Mountainlands Association; and
 - (vii) Wasatch Front Regional Council;
 - (c) two representatives from the Department of Public Safety:
 - (i) one of whom represents an urban Utah public service answering point; and
 - (ii) one of whom represents a rural Utah public safety answering point; and
 - (d) the statewide interoperability coordinator, created in Section 63H-7-309.
- (2)
- (a) Each committee member shall be appointed as follows:
 - (i) a member described in Subsection (1)(a) shall be appointed by the governor from a nominee or nominees submitted to the governor by the council of government for that member's county;
 - (ii) the seven members described in Subsection (1)(b) shall be appointed by the governor from a nominee or nominees submitted to the governor by the associations described in Subsection (1)(b) as follows:
 - (A) the seven associations shall select by lot the first five associations to begin the rotation of membership as required by Subsection (2)(b)(i); and
 - (B) as each association is represented on the committee in accordance with Subsection (2)(b)(i), that association shall select the person to represent it on the commission; and
 - (iii) the members described in Subsections (1)(c) and (d) shall be appointed by the governor.
 - (b) The term of office of each member is four years.
 - (c) No member of the committee may serve more than two consecutive four-year terms.
 - (d) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2)(a).
- (3)
- (a) Committee members shall elect a chair from their number and establish rules for the organization and operation of the committee, with the chair selected by representatives from Subsections (1)(a), (b), and (c) every year.
 - (b) Staff services to the committee shall be provided by the authority.
 - (c) Funding for staff services shall be provided with funds approved by the board from those identified under Section 63H-7-306.
- (4)
- (a) No member may receive compensation or benefits for the member's service on the committee.
 - (b) A member is not required to give bond for the performance of official duties.
- (5) A majority of the committee constitutes a quorum for voting purposes.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-303 Committee's duties and powers.

- (1) The committee shall:
- (a) review and make recommendations to the board, public safety answering points, and the Legislature on:
 - (i) technical, administrative, fiscal, and operational issues for the implementation of unified statewide 911 emergency services;
 - (ii) technology and standards for the implementation of unified statewide 911 emergency services;
 - (iii) emerging technological upgrades;

- (iv) expenditures by local public safety answering points to assure implementation of unified statewide 911 emergency services and standards of operation; and
 - (v) mapping systems and technology necessary to implement the unified statewide 911 emergency services;
 - (b) administer the program funded by the Unified Statewide 911 Emergency Service Account as provided in this part;
 - (c) administer the program funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7-310;
 - (d) assist as many local entities as possible, at their request, to implement the recommendations of the committee; and
 - (e) fulfill all other duties imposed on the committee by the Legislature by this part.
- (2) The committee may recommend to the board to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the board that is related to:
- (a) unified statewide 911 emergency service;
 - (b) the computer aided dispatch system; or
 - (c) funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted accounts.
- (3) The committee may make recommendations to the board to own, operate, or enter into contracts for unified statewide 911 emergency services and a computer aided dispatch system.
- (4)
- (a) The committee shall review information regarding:
 - (i) in aggregate, the number of service subscribers by service type in a political subdivision;
 - (ii) 911 delivery network costs;
 - (iii) public safety answering point costs;
 - (iv) system engineering information; and
 - (v) a computer aided dispatch system.
 - (b) In accordance with Subsection (4)(a) the committee may request:
 - (i) information as described in Subsection (4)(a)(i) from the Utah State Tax Commission; and
 - (ii) information from public safety answering points connected to the computer aided dispatch system.
 - (c) The information requested by and provided to the committee under Subsection (4) is a protected record in accordance with Section 63G-2-305.
- (5) The committee shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7-304 including rules that establish the criteria, standards, technology, and equipment that a local entity or state agency must adopt in order to qualify for funds from the restricted account.
- (6) The committee shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the restricted account created in Section 63H-7-310, including rules that establish the criteria, standards, technology, and equipment that a local entity or state agency must adopt in order to qualify as a recipient of a computer aided dispatch system.
- (7) The committee may employ an outside consultant to:
- (a) study and advise on the issue of public safety answering points; and
 - (b) advise the committee regarding:
 - (i) public safety communications and other issues regarding unified state 911 emergency services;
 - (ii) computer aided dispatch system consolidation; and
 - (iii) consolidation of public safety answering points by county or region.

- (8) This section does not expand the authority of the Utah State Tax Commission to request additional information from a telecommunication service provider.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-304 Creation of Unified Statewide 911 Emergency Service Account.

- (1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:
- (a) proceeds from the fee imposed in Section 69-2-5.6;
 - (b) money appropriated or otherwise made available by the Legislature; and
 - (c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.
- (2) The money in this restricted account shall be used exclusively for the following statewide public purposes:
- (a) enhancing public safety as provided in this chapter; and
 - (b) providing unified statewide 911 emergency service available to public safety answering points.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-305 Committee expenses -- Committee responsibilities.

- (1) Subject to appropriation, expenses and the costs of administering disbursements from the restricted account, as provided in Subsection (2), shall be paid from the restricted account.
- (2)
- (a) The committee shall be responsible for the care, custody, safekeeping, collection, and accounting for disbursements made by the committee under the provisions of Section 63H-7-306.
 - (b) Subject to appropriation, the Division of Finance may charge the restricted account the administrative costs incurred in discharging the responsibilities imposed by Section 63H-7-306.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-306 Use of money in restricted account -- Criteria -- Division of Finance responsibilities.

- (1)
- (a) Subject to an annual legislative appropriation from the restricted account to the Division of Finance, the Division of Finance shall disburse the money in the fund for the benefit of a public agency in accordance with this Subsection (1) and Subsection (2).
 - (b) The committee shall administer the program and forward to the Division of Finance the committee's authorization for disbursement from the restricted account in accordance with this section.
 - (c) The committee shall:
 - (i) disburse on behalf of public agencies an amount not to exceed the per month fee levied on telecommunications service under Section 69-2-5.6 for installation, implementation, and maintenance of unified statewide 911 emergency services and technology; and

- (ii) in addition to any money under Subsection (1)(c)(i), disburse on behalf of counties of the third through sixth class the amount dedicated for rural assistance, which is at least 3 cents per month levied on 911 emergency service under Section 69-2-5.6 to:
 - (A) enhance the 911 emergency services with a focus on areas or counties that do not have 911 emergency services; and
 - (B) where needed, assist the counties, in cooperation with private industry, with the creation or integration of wireless systems and location technology in rural areas of the state.
- (d) The committee shall reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the committee.
- (2) Beginning July 1, 2014, the committee may not authorize disbursements and the Division of Finance may not disburse the money in the restricted account on behalf of an entity unless the entity has the capability to receive Internet protocol based 911 emergency service.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-307 Committee to report annually.

- (1) The committee shall submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee, which shall include:
 - (a) the total aggregate surcharge collected by local entities and the state in the last fiscal year under Sections 69-2-5 and 69-2-5.6;
 - (b) the amount of each disbursement from the restricted account;
 - (c) the recipient of each disbursement and describing the project for which money was disbursed;
 - (d) the conditions, if any, placed by the committee or the Division of Finance on disbursements from the restricted account;
 - (e) the planned expenditures from the restricted account for the next fiscal year;
 - (f) the amount of any unexpended funds carried forward;
 - (g) a cost study to guide the Legislature towards necessary adjustments of both the Unified Statewide 911 Emergency Service Account and the monthly emergency services telephone charge imposed under Section 69-2-5; and
 - (h) a progress report of local government implementation of 911 emergency services including:
 - (i) a fund balance or balance sheet from each agency maintaining its own emergency telephone service fund;
 - (ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and
 - (iii) other relevant justification for ongoing support from the Unified Statewide 911 Emergency Service Account created by Section 63H-7-304.
- (2)
 - (a) The committee may request information from a local entity as necessary to prepare the report required by this section.
 - (b) A local entity imposing a levy under Section 69-2-5 or receiving a disbursement under Section 63H-7-306 shall provide the information requested pursuant to Subsection (2)(a).

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-308 Radio Network Division.

- (1) There is created within the authority the Radio Network Division.
- (2) The technical operations manager of the Radio Network Division shall be appointed by the executive director with the approval of the board.
- (3) The Radio Network Division shall provide technical staff and support to the authority.

Enacted by Chapter 320, 2014 General Session

63H-7-309 Office of Statewide Interoperability Coordinator.

- (1) There is created within the authority the Office of the Statewide Interoperability Coordinator.
- (2) The executive director shall appoint the statewide interoperability coordinator with the approval of the board.
- (3) The Office of the Statewide Interoperability Coordinator shall:
 - (a) promote wireless technology information and interoperability among local, state, federal, and other agencies;
 - (b) provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies;
 - (c) improve data and information sharing and coordination of multijurisdictional responses;
 - (d) identify opportunities to consolidate infrastructures and technologies;
 - (e) evaluate current technologies and determine if they are meeting the needs of agency personnel in respective service areas; and
 - (f) create and maintain procedures for requesting interoperability channels.

Enacted by Chapter 320, 2014 General Session

63H-7-310 Creation of Computer Aided Dispatch Restricted Account -- Administration -- Use of money.

- (1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of:
 - (a) proceeds from the fee imposed in Section 69-2-5.5;
 - (b) money appropriated or otherwise made available by the Legislature; and
 - (c) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.
- (2) The money in this restricted account shall be used exclusively for the following statewide public purposes:
 - (a) enhancing public safety as provided in this chapter; and
 - (b) creating and maintaining a shared computer aided dispatch system including:
 - (i) a single computer aided dispatch platform that will be selected, maintained, shared, or hosted on a statewide or regional basis;
 - (ii) a single computer aided dispatch platform selected by a county of the first class, when:
 - (A) authorized through an interlocal agreement between the county's two primary public safety answering points; and
 - (B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and
 - (iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.
- (3) Subject to appropriation, the Division of Finance may charge the administrative costs incurred in discharging the responsibilities imposed by this section.
- (4)

- (a) Subject to an annual legislative appropriation from the restricted account to the Division of Finance, the Division of Finance shall disburse the money in the fund, based on the authorization of the committee under Subsections (4)(b) and (c).
- (b) The Utah 911 Committee shall administer the development and maintenance of the shared computer aided dispatch system:
 - (i) for state agencies and local entities; and
 - (ii) where needed, to assist public agencies with the creation or integration and maintenance of the shared computer aided dispatch system.
- (c) The Utah 911 Committee shall:
 - (i) annually report to the Division of Finance the committee's authorized disbursements from the restricted account;
 - (ii) be responsible for the care, custody, safekeeping, collection, and accounting for disbursements; and
 - (iii) submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee, which shall include:
 - (A) the amount of each disbursement from the restricted account;
 - (B) the recipient of each disbursement and a description of the project for which money was disbursed;
 - (C) the conditions, if any, placed by the committee or the Division of Finance on disbursements from the amount appropriated from the restricted account;
 - (D) the planned expenditures from the restricted account for the next fiscal year;
 - (E) the amount of any unexpended funds carried forward; and
 - (F) a progress report of implementation of a statewide computer aided dispatch system.
- (5)
 - (a) The committee may request information from a public safety answering point as necessary to prepare the report required by this section.
 - (b) A recipient under this section shall provide the information requested pursuant to Subsection (5)(a).

Enacted by Chapter 320, 2014 General Session

Part 4

Bonding Authority

63H-7-401 Bond authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from certain taxes.

- (1) The authority may:
 - (a) issue bonds from time to time for any of its corporate purposes provided in Section 63H-7-102;
 - (b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;
 - (c) issue bonds on which the principal and interest are payable:
 - (i) exclusively from the income, purchase or lease payments, and revenues of all or a portion of the communications network; or
 - (ii) from its revenues generally.

- (2) Any bonds issued by the authority may be additionally secured by a pledge of any loan, lease, grant, agreement, or contribution, in whole or in part, from the federal government or other source, or a pledge of any income or revenue of the authority.
- (3) The officers of the authority and any person executing the bonds are not liable personally on the bonds.
- (4)
 - (a) The bonds and other obligations of the authority are not a debt of any member or state representative of the authority, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.
 - (b) The face of the bonds and other obligations shall state the provisions of Subsection (4)(a).
- (5) Any bonds of the authority shall be revenue obligations, payable solely from the proceeds, revenues, or purchase and lease payments received by the authority for the communications network.
- (6) The full faith and credit of any member or state representative may not be pledged directly or indirectly for the payment of the bonds.
- (7) A member or state representative may not incur any pecuniary liability under this chapter until it enters into a service contract, lease, or other financing obligation with the authority. Once a member enters into a service contract, lease, or other financing obligation with the authority, the member shall be obligated to the authority as provided in that contract, lease, or financing obligation.
- (8) A bond or obligation may not be made payable out of any funds or properties other than those of the authority.
- (9) Bonds of the authority are:
 - (a) declared to be issued for an essential public and governmental purpose by public instrumentalities; and
 - (b) together with interest and income, exempt from all taxes, except the corporate franchise tax.
- (10) The provisions of this chapter exempting the properties of the authority and its bonds and interest and income on them from taxation shall be considered part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, the authority and the state.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-402 Bonds to be authorized by resolution -- Form -- Sale -- Negotiability -- Validity presumed.

- (1) Bonds of the authority shall:
 - (a) be authorized by resolution of the board and may be issued in one or more series;
 - (b) bear dates, mature, bear interest rates, be in denominations, be either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed, and be payable; and
 - (c) be subject to terms of redemption, with or without premium, as the resolution or its trust indenture provides.
- (2) The bonds may bear interest at a fixed or variable interest rate as the resolution provides. The resolution may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.
- (3) In connection with the bonds, and on behalf of the authority, the board may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters

of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements to secure the bonds, to enhance the marketability and creditworthiness of the bonds, to determine a fixed or variable interest rate on the bonds, and to pay from any legally available source, including the proceeds of the bonds, of fees, charges, and other amounts coming due with respect to any such agreements.

- (4) The bonds may be sold at public or private sale in a manner and at prices, either at, in excess of, or below par value as provided by resolution of the board.
- (5) If members or officers of the authority whose signatures appear on bonds or coupons cease to be members or officers before the delivery of the bonds, their signatures are valid and sufficient for all purposes.
- (6) Any bonds issued under this part are fully negotiable.
- (7) In any suit, action, or proceeding involving the validity or enforceability of any bond of the authority or the security for it, any bond reciting in substance that it has been issued by the authority to aid in financing the communications network shall be conclusively considered to have been issued for such purposes, and the communications network shall be conclusively considered to have been planned, located, and carried out in accordance with this part.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-403 Bonds and other obligations -- Additional powers of the authority.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of bonds or obligations, the authority, in addition to its other powers, may:

- (1) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may accrue in the future;
- (2) mortgage all or any part of its real or personal property owned or acquired in the future;
- (3) covenant against:
 - (a) pledging all or any part of its rents, fees, and revenues;
 - (b) mortgaging all or any part of its real or personal property to which its right or title then exists or accrues in the future;
 - (c) permitting any lien on its revenues or property;
 - (d) extending the time for the payment of its bonds or interest on them;
 - (e) the use and disposition of the money held in the funds in Subsection (7); and
 - (f) the use, maintenance, and replacement of any or all of its real or personal property;
- (4) covenant as to:
 - (a) bonds to be issued;
 - (b) the issuance of bonds in escrow or otherwise;
 - (c) the use and disposition of the bond proceeds;
 - (d) the insurance to be carried on the property in Subsection (3)(f) and the use and disposition of insurance money; and
 - (e) the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;
- (5) provide for the replacement of lost, destroyed, or mutilated bonds;
- (6) covenant for the redemption of the bonds and provide the terms and conditions for their redemption;
- (7) create or authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes;

- (8) prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the number of bondholders of outstanding bonds which must consent to the action, and the manner in which consent shall be given;
- (9) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (10) vest in any obligee of the authority or any specified proportion of them the right:
 - (a) to enforce the payment of bonds or any covenants securing or relating to the bonds;
 - (b) after default by the authority to:
 - (i) take possession of and use, operate, and manage any facilities or any part of it or any funds connected with the facilities and funds, and collect the revenues arising from them; and
 - (ii) dispose of the facilities and funds in accordance with the agreement with the authority;
- (11) provide the:
 - (a) powers and duties of an obligee and limit the obligee's liabilities; and
 - (b) terms and conditions upon which the obligees may enforce any covenant or rights securing or relating to the bonds;
- (12) exercise all or any part or combination of the powers granted in this chapter;
- (13) perform any acts necessary, convenient, or desirable to secure its bonds; and
- (14) make any covenants or perform any acts calculated to make the bonds more marketable.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-404 Reserve funds for debt service.

- (1) To assure the continued operation and solvency of the authority for the carrying out of its purpose, the authority may establish reserve funds necessary to secure the payment of debt service on its bonds.
- (2) The resolution authorizing the issuance of the bonds shall specify the minimum amount that is required to be on deposit in the reserve funds.
- (3) The chair shall annually, on or before December 1, certify to the governor, the director of finance, and to each member the amount, if any, required to restore the funds to their required funding levels.
- (4)
 - (a) The governor may request from the Legislature an appropriation of the amount certified in Subsection (3) to restore the reserve funds to their required funding levels or to meet any projected principal or interest payment deficiency. Any amount appropriated shall be repaid to the General Fund of the state in excess of the amounts which the board determines will keep it self-supporting.
 - (b) The board shall adjust the fees of the members so that the state is repaid for the amount appropriated in Subsection (4)(a) within 18 months after the state has paid the deficit.
- (5) The members are jointly responsible for 1/2 the amount certified in Subsection (3) to restore the reserve funds to their required funding levels. The board may request from each member money proportionate to their participation in the network to restore the funding level. Any amount paid by the members shall be proportionally repaid to them from 1/2 of any money in excess of the amounts which the board determines will keep it self-supporting.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-405 Investment of the authority funds.

The state treasurer shall invest all money held on deposit by or on behalf of the authority. The board may provide advice to the state treasurer concerning investment of the money of the authority.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-406 Publication of notice, resolution, or other proceeding -- Period for contesting.

- (1) The board may provide for the publication of any resolution or other proceedings adopted under this chapter:
 - (a) in a newspaper of general circulation within the state; and
 - (b) as required in Section 45-1-101.
- (2) In case of a resolution or other proceeding providing for the issuance of bonds, the board may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued containing:
 - (a) the name of the issuer;
 - (b) the purpose of the issue;
 - (c) the type of bonds and the maximum principal amount which may be issued;
 - (d) the maximum number of years over which the bonds may mature;
 - (e) the maximum interest rate which the bonds may bear, if any;
 - (f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and
 - (g) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at the principal office of the authority during regular business hours and for a period of at least 30 days after the publication of the notice.
- (3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding, any bonds which may be authorized by the resolution or proceeding, or any provision made for the security and payment of the bonds by filing a pleading with the district court for the city in which the authority maintains its principal office.

Renumbered and Amended by Chapter 320, 2014 General Session

Part 5 General Provisions

63H-7-501 Property and funds of the authority declared public property -- Exemption from taxes.

- (1) The property and funds of the authority are declared to be public property used for essential public and governmental purposes.
- (2) The property and the authority are exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-502 Term of the authority -- Dissolution -- Withdrawal.

- (1)

- (a) The authority may be dissolved by an act of the Legislature.
 - (b) Title to all assets of the authority upon its dissolution shall revert to the members and the state pro rata, based upon the total amount of money paid to the authority by each member or the state for services provided to each by the communications network.
 - (c) The board is authorized to:
 - (i) take any necessary action to dissolve the authority; and
 - (ii) dispose of the property of the authority upon its dissolution as provided in Subsection (1)(b).
- (2)
- (a) Each member may, at any time, withdraw as a member of the authority by delivering to the board a written notice of withdrawal which has been approved by the governing body of the member, except that a member may not withdraw from the authority at any time during which it has an outstanding payment obligation to the authority as a result of having entered into a service contract, lease, or other financial obligation.
 - (b) Except as provided in Subsection (2)(a), the board shall delete the petitioning member from the membership of the authority as of the date of the board's receipt of the member's notice of withdrawal. The board may not include a member who has given notice of withdrawal in any future obligation of the authority.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-503 Relation to certain acts -- Participation in Risk Management Fund.

- (1) The Utah Communications Authority is exempt from:
 - (a) Title 63J, Chapter 1, Budgetary Procedures Act;
 - (b) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;
 - (c) Title 63G, Chapter 6a, Utah Procurement Code;
 - (d) Title 63G, Chapter 4, Administrative Procedures Act; and
 - (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The board shall adopt budgetary procedures, accounting, procurement, and personnel policies substantially similar to those from which they have been exempted in Subsection (1).
- (3) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Renumbered and Amended by Chapter 320, 2014 General Session

63H-7-504 Annual report to governor and Legislature -- Contents -- Audit by state auditor -- Reimbursement for costs.

- (1) The authority shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.
- (2) The state auditor shall at least once in each year audit the books and accounts of the authority or shall contract with an independent certified public accountant for this audit. The audit shall include a review of the procedures adopted under the requirements of Subsection 63H-7-503(2) and a determination as to whether the board has complied with the requirements of Subsection 63H-7-503(2).
- (3) The authority shall reimburse the state auditor from available money of the authority for the actual and necessary costs of that audit.

Renumbered and Amended by Chapter 320, 2014 General Session

